

Message Text

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63

ORIGIN L-03

INFO OCT-01 EUR-25 NEA-10 IO-13 ISO-00 SSO-00 NSCE-00

USIE-00 INRE-00 CIAE-00 DODE-00 PM-07 H-03 INR-10

NSAE-00 NSC-10 PA-03 RSC-01 PRS-01 SPC-03 SS-15

ACDA-19 CAB-09 COME-00 EB-11 FAA-00 AF-10 ARA-16

EA-11 DOTE-00 SY-10 USSS-00 OIC-04 JUSE-00 SCA-01 A-01

OMB-01 /198 R

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FM SECSTATE WASHDC

TO AMEMBASSY ROME IMMEDIATE

INFO USMISSION USUN NEW YORK

AMEMBASSY MOSCOW

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AMEMBASSY TEL AVIV

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E.O. 11652: GDS

TAGS: ICAO, ETRN

SUBJECT: ICAO AIR SECURITY CONFERENCE: STATE
RESPONSIBILITY ISSUE

MONTREAL FOR US REP ICAO

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REFS: (NOTAL) (A) ROME 9280; (B) ROME 9408; (C) ROME 9201

1. USG CAN SUPPORT CONCEPT OF EXPRESS PROHIBITION ON N STATE ACTS OF UNLAWFUL INTERFERENCE WITH CIVIL AIRCRAFT, AND WE BELIEVE 1B OF PRINCIPLES ON INDEPENDENT CONVENTION AND PERHAPS FRG TYPE FORMULATION PROVIDE ADEQUATE BASIS FOR DISCUSSION OF THE SUBJECT. NONETHELESS, WE ARE PERSUADED OF TACTICAL AND PRACTICAL DIFFICULTIES IN PRODUCING ADEQUATE TEXT AT ROME ON THIS SUBJECT, AS INDICATED BY DEL IN REFTEL A AND OTHER REPORTING CABLES. BECAUSE DISCUSSION IN THIS AREA MAY BECOME LENGTHY DUE TO INHERENT COMPLEXITY OF TOPIC, DELEGATION MAY AGREE TO SUCH WORKING ARRANGEMENTS ON THIS ISSUE AS IN ITS DISCRETION ARE MOST LIKELY TO ENHANCE POSITIVE OUTCOME OF CONFERENCE ON BASIS US POSITION FOR AN EFFECTIVE INDEPENDENT CONVENTION. DELEGATION SHOULD NOT, HOWEVER, APPEAR TO OPPOSE ON SUBSTANTIVE GROUNDS INCLUSION OF STATE ACTS OR, EFFORT TO DRAFT INTERNATIONAL RULES ON STATE ACTS OF INTERFERENCE.

2. IF QUESTION ARISES OF PROVISIONS FOR APPLICATION OF SANCTIONS (RATHER THAN SIMPLY DEFINING OF UNLAWFUL STATE ACTS DISCUSSED PARA 1) US DEL SHOULD OPPOSE ANY PROPOSALS LIMITED TO POSITIVE STATE ACTS. IT IS UNCLEAR TO DEPT FROM PARA 2 REFTEL A WHAT KIND OF PROPOSALS MIGHT SURFACE. PROVISION FOR PROSPECTIVE APPLICATION OF SANCTIONS (WE OPPOSE ANY SANCTIONS FOR PAST INCIDENTS) MUST BE OF GENERAL APPLICABILITY AND COVER OMISSIONS (FAILURE TO EXTRADITE OR PROSECUTE OFFENDERS) AS WELL AS COMMISSIONS TO ENABLE US TO CONSIDER SUPPORT. WE WOULD WELCOME DEL'S VIEWS RE POSSIBILITY OF CONFERENCE ACCEPTANCE OF PROVISION INVOLVING REFERENCE OF CASES TO UNSC FOR DECISION ON SANCTIONS. WITH RESPECT TO SANCTIONS PROPOSALS INVOLVING AMENDMENT OF CHICAGO CONVENTION, INSTRUCTIONS WILL FOLLOW TOMORROW.

3. WITH RESPECT TO VOTES ON PRINCIPLES DESCRIBED REFTEL B, DEL MAY IN ITS DISCRETION ABSTAIN ON OR VOTE IN FAVOR, BUT NOT OPPOSE QUESTION 2. IN OUR VIEW ABSTENTION COULD BE APPROPRIATE ON BASIS CONCEPT IS LIMITED OFFICIAL USE

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COVERED IN QUESTION 1B. 1B SHOULD BE SUPPORTED AS IT HAS BEEN BY US DELS IN PAST, IN PARTICULAR AT APRIL 1971 AND SEPT 1972 LEGAL SUBCOMITE MEETINGS WHEN PUT FORWARD IN SUBSTANTIALLY SIMILAR FORM AS UNITED KINGDOM PROPOSALS. WE VIEW IT AS NICELY BALANCED SINCE STATE "CONDUCT" WOULD COVER OMISSIONS AS WELL AS COMMISSIONS. DEPT WONDERS WHETHER GENERAL LANGUAGE OF THIS KIND MIGHT MEET CONCERN OF THOSE DELEGATIONS

DESIRING TO COVER ACTS OF UNLAWFUL INTERFERENCE COMMITTED
BY STATES AND THEREBY AVOID DIFFICULT DRAFTING CHORE
AND OTHER PRACTICAL DIFFICULTIES DESCRIBED BY DEL
IN REFTTEL A WHICH ARE RAISED BY QUESTION 2. RUSH

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